

**Statutory Mandates Applicable to the Higher Education Policy Commission**  
**UPDATED FOR BLUE RIBBON COMMISSION SEPT. 4, 2018**

CODE PROVISION	FROM	TO	CATEGORY	SUBCATEGORY	MANDATE	APPENDIX
18B-19-5(c)(1)	HEPC	BOG	Finance	Reports	HEPC and CCTCE to provide governing board a building renewal calculation annually by April 1.	page 41
18B-19-5(c)(3)	HEPC	BOG	Finance	Reports	HEPC and CCTCE to report to LOCEA on revenue available to governing boards for maintenance projects, shortfalls based on building renewal formula calculation, and major maintenance projects proposed by the institutions.	p. 41
18B-10-1(k)	HEPC	LOCEA	Finance	Reports	HEPC to report to LOCEA re institution compliance with statutory requirements re tuition and fee increases and basis for approving or denying.	p. 33
18B-1A-5(a) 18B-1B-4(a)(29)	HEPC	GOVERNOR	Finance	Budget and Planning	HEPC annually to develop operating budget request, incorporate CCTCE operating budget request and submit total request to Governor.	p. 3, 7
18B-1D-8a 18B-19-18	HEPC/ CCTCE	LOCEA	Finance	Reports	HEPC and CCTCE to annually provide general status report to LOCEA on the progress being made in implementing the statewide capital development plan and on the progress of the governing boards in implementing the objectives of institutions' campus development plans. Pursuant to 18B-1D-8a, information required shall be combined in other reports.	p. 19, 43
18B-5-7	HEPC/ CCTCE	LEGISLATURE	Finance	Reports	HEPC, CCTCE and governing board to report biannually to the Legislative Auditor all sales of commodities made during the preceding biennium.	p. 29
5A-10-9	HEPC/ CCTCE	Real Estate Division	Finance	Reports	Provide annual report on inventory of real property holdings to Real Estate Division.	p. 1
18B-7-16	HEPC/ CCTCE	LOCEA	Human Resources	Reports	HEPC and CCTCE to study and develop policies for reductions-in-force, furloughs, issues related to seniority, internal preferences for hiring, define non-classified employee, and the status of grant employees and report findings and recommendations to LOCEA.	p. 32

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CODE PROVISION	FROM	TO	CATEGORY	SUBCATEGORY	MANDATE	APPENDIX
18B-7-8	HEPC / CCTCE	LOCEA	Human Resources	Reports	HEPC and CCTCE to prepare annual Human Resources Report Card by December 1, 2020 and every five years thereafter.	p. 30
18B-1D-8a 18B-7-8	HEPC / CCTCE	LOCEA	Human Resources	Reports	HEPC and CCTCE to report to LOCEA by July 1, 2016 and at least every 5 years on effectiveness of job classification, point factor methodology, and job evaluation plan. Pursuant to 18B-1D-8a, information required shall be included in HR Report Card.	p. 19, 30
18C-3-1(f)	HEPC	HEPC	Financial Aid	Reports	Vice Chancellor for Administration to annually submit report about medical student loans to HEPC for inclusion in Report Card.	p. 46
18B-1D-8a 18C-5-7	HEPC	LOCEA	Financial Aid	Reports	Vice Chancellor for Administration to report annually by December 1 to LOCEA on status of HEAPS grant program. Pursuant to 18B-1D-8a, information required shall be included in Financial Aid Comprehensive Report.	p. 19, 50
18B-1D-8a 18C-7-5	HEPC	LOCEA	Financial Aid	Reports	HEPC to provide annual report concerning PROMISE scholarship recipients. Pursuant to 18B-1D-8a, information required shall be included in Financial Aid Comprehensive Report.	p. 19, 54
18B-1D-8a 18C-7-5(b)	HEPC	LOCEA	Financial Aid	Reports	HEPC to make annual recommendations to LOCEA to encourage recipients to live and work in WV after graduation. Pursuant to 18B-1D-8a, information required shall be included in Financial Aid Comprehensive Report.	p. 19, 54
18C-1-1(e)	HEPC	LOCEA	Financial Aid	Reports	Vice Chancellor for Administration to prepare and report annually to Commission, Council and LOCEA Financial Aid Comprehensive Report.	p. 44
30-7B-7	HEPC	LOCEA / LOCHHRA	Health Sciences	Reports	WV Center for Nursing shall report biennially on its progress in developing a statewide strategic plan to address the nursing shortage in West Virginia.	p. 56

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CODE PROVISION	FROM	TO	CATEGORY	SUBCATEGORY	MANDATE	APPENDIX
18B-16-9(c), (d)	HEPC	LOCEA / LEGISLATURE	Health Sciences	Reports	Rural Health Advisory Panel and Vice Chancellor for Health Sciences to report annually to LOCEA and Joint Committee on Government and Finance about status of the rural health initiative. To be included in Health Sciences Report Card.	p. 37
18B-16-9(e)	HEPC	GOVERNOR AND LEGISLATURE	Health Sciences	Reports	HEPC to report annually to Governor, Senate President, and House Speaker about extent to which rural health initiative goals are being met. To be included in Health Sciences Report Card.	p. 37
18B-1D-8a 18C-3-4	HEPC	LOCEA / LOCHHRA	Health Sciences	Reports	HEPC to report annually by December 1 to LOCEA and LOCHHRA the number of Nursing Scholarship recipients. Pursuant to 18B-1D-8a, information required shall be included in Financial Aid Comprehensive Report.	p. 19, 48
18B-1-1e	HEPC	LOCEA / WVBOE	Policy and Planning	Reports	HEPC to report annually to LOCEA and WVBOE the number of public school graduates accepted for enrollment at public institutions whose knowledge, skill, and competency were below expected minimum standards and the areas of deficiency.	p. 2
18B-1D-8	HEPC	LOCEA	Policy and Planning	Reports	HEPC to complete comprehensive statewide Higher Education Report Card to include data on achieving state goals and objectives as well as information from the statewide masterplan by January 1 annually.	p. 17
18B-1D-8(i)	HEPC	LOCEA	Policy and Planning	Reports	HEPC and Council to prepare report highlighting trends, progress toward meeting goals and objectives and major areas of concern for public higher education, including medical education.	p. 17
18B-1D-5	HEPC	LOCEA	Policy and Planning	Planning	Submission of any new master plan every five years to LOCEA for approval.	p. 15
18B-1D-5	HEPC	LOCEA	Policy and Planning	Reports	HEPC to provide detailed report to LOCEA on meeting master plan at the end of each five-year period.	p. 15

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CODE PROVISION	FROM	TO	CATEGORY	SUBCATEGORY	MANDATE	APPENDIX
18B-3-4	HEPC	LOCEA	Policy and Planning	Reports	HEPC to report institutions' six-year graduation rates to LOCEA annually by December 1.	p. 22
18B-4-9	HEPC	LEGISLATURE	Student Affairs	Reports	HEPC jointly with CCTCE to submit report annually by September 1 to Legislature regarding progress toward implementing services for student veterans.	p. 26
18B-1D-8a 18B-4-7	HEPC/ CCTCE	LOCEA	Academic Affairs	Reports	HEPC and CCTCE to provide annual report on institutional reauthorization reviews. Information to be made available on websites. Pursuant to 18B-1D-8a, information required shall be included in Higher Education Report Card.	p. 19, 24
18B-1D-8a 18B-1D-9	HEPC	GOVERNOR AND SECRETARY OF STATE	BOG	Reports	HEPC to include report of training of HEPC and BOG members each year in Report Card and notify Secretary of State of members disqualified because of lack of training and seek replacement from appointing authority. Information to be included in Report Card only. Pursuant to 18B-1D-8a, annual report not required.	p. 19, 20
18B-18A-12	HEPC	LOCEA	Science and Research	Reports	HEPC to make annual report to LOCEA on Research Trust Fund, disbursements, expenditures, research funded, outcomes, etc.	p. 39
18B-18B-2	HEPC	LOCEA	Science and Research	Reports	Science and Research Council to make annual report to LOCEA on status of Strategic State Plan for Science and Technology Research.	p. 40

# Appendix

## **WV Code §5A-10-9**

### **§5A-10-9. Real property accounting and records.**

(a) All real property owned or leased by the state shall be accounted for by the state spending unit that owns, leases or is in the possession of the real property.

(b) Each state spending unit shall establish and maintain a record of each item of real property it owns and/or leases and annually furnish its records to the Real Estate Division.

(c) Beginning July 1, 2019, and every year thereafter, the Real Estate Division shall report to the Governor and Joint Committee on Government and Finance those agencies that have not provided a complete annual record pursuant to subsection (b).

(d) With regard to public lands, rivers or streams, that may be by law specifically allocated to and used by any state agency, institution, division or department, such agency, institution, division or department shall provide an inventory of such public land(s), rivers or streams, to the Public Land Corporation in accordance with the provisions of §5A-11-1, *et seq.* of this code.

(e) The records furnished to the Real Estate Division shall include a description of each item of real property including address, lot number, and if available, the following identifying information:

(1) The date of purchase and the purchase price of the real property;

(2) If the state is leasing real property, the date of lease and the rental costs of the real property;

(3) The name of the state spending unit holding title to the real property for the state;

(4) A description of the current uses of the real property and the projected future use of the real property; and

(5) A description of each building or other improvement located on the real property.

(f) The records furnished to the Real Estate Division regarding rivers and streams shall include a description of each river or stream, including the applicable county, tax district, and if the interest or property is under the Ohio River, the applicable mile post.

## **WV Code §18B-1-1e**

### **§18B-1-1e. Public education and higher education collaboration for the preparation of students for college and other post-secondary education.**

(a) Purpose. -- The purpose of this section is as follows:

(1) To assist students in the planning and preparation for success in college and other post-secondary education if their education major interests require such formal education after high school;

(2) To establish the minimum expected level of knowledge, skill and competency a student must possess to be prepared fully for college and other post-secondary education at state institutions of higher education;

(3) To implement a method for communicating the minimum level of knowledge, skill and competency to students, parents, educators and counselors in the public schools, and admissions officers, advisors and faculty in the higher education institutions; and

(4) To assure that the teacher preparation programs in state institutions of higher education prepare educators to, at a minimum, deliver instruction necessary to prepare students fully for college and other post-secondary education or gainful employment consistent with the provisions of section eight, article two-e, chapter eighteen of this code.

(b) Joint rule. -- On or before October 1, 1996, the higher education governing boards shall promulgate a joint rule to achieve the purposes of subsection (a) of this section. In the development of such rule, the governing boards shall consult with the state board and the jobs through education employer panel, established pursuant to section eight, article two-e, chapter eighteen of this code, and shall collaborate with the state board in the establishment of compatible practices within their separate systems.

(c) Assessment of student readiness. -- To provide continuous assessment and program improvement in the preparation of high school students for success in college or other post-secondary education, the higher education governing boards shall communicate to the state board and the Legislative Oversight commission on education accountability by December 1, in each year, beginning in December, 1997, the number of graduates from the public schools in the state by high schools who were accepted in the last calendar year for enrollment at each of the state institutions of higher education within one year of graduation, and whose knowledge, skill and competency were below the minimum expected levels for full preparation as defined by the governing boards. The governing boards also shall report the areas in which the knowledge, skill and competency of the students were below the minimum expected level. The state board shall provide information to each of the high schools of the state for graduates from the high school.

## WV Code §18B-1A-5

### §18B-1A-5. Financing; institutional operating budgets, additional funding.

(a) Budget request and appropriations. -- The commission and council each has the responsibility to develop a budget for the state system of higher education under its respective jurisdiction. The commission submits the budget request for higher education, including the budget request as developed by the council, to the Governor before September 1, annually. The budget requests of the commission and the council specifically shall include the amount of the institutional operating budgets, as defined in section two, article one of this chapter, required for all state institutions of higher education under their respective jurisdictions. The budget appropriation for the state systems of higher education under this chapter and other provisions of the law shall consist of separate control accounts or institutional control accounts, or some combination of such accounts, for appropriation of institutional operating budgets and other funds. The commission and council each is responsible for allocating state appropriations to supplement institutional operating budgets in accordance with this section. In addition to the institutional operating budget and incentive funding, however, the commission and council each is responsible for allocating funds that are appropriated to it for other purposes. In order to determine institutional allocations, it is the responsibility of the institutions and their respective institutional boards of Governors or advisors, as appropriate to provide to the commission or council documentation on institutional progress toward mission enhancement, preliminary peer comparison calculations, performance of increased productivity and academic quality and measurable attainment in fulfilling state priorities as set forth in this article. The documentation shall be provided to the commission or council no later than October 1, annually.

(b) Legislative funding priorities. --

(1) The Legislature recognizes the current funding model has not moved all state institutions equitably towards comparable peer funding levels. The model has left West Virginia institutions at a competitive disadvantage to their national peers.

(2) The Legislature acknowledges that the resource allocation model used to comply with enrolled committee substitute for Senate bill no. 547, passed during the legislative session of 1995, alleviated some of the disparity that exists among state institutions' operating budgets, but left significant differences between the institutions and their national peers.

(3) The Legislature recognizes that a system of independently accredited community and technical colleges is essential to the economic vitality of the state.

(4) The Legislature places great importance on achieving the priority goals outlined in the public policy agenda and believes the state institutions of higher education should play a vital role in facilitating the attainment of these goals.

(5) The Legislature also believes it is imperative that the state make progress on narrowing the peer inequity while balancing the need for sustaining the quality of our institutions.



(6) It is the charge of the commission and council to allocate all funds appropriated in excess of the fiscal year 2001 general revenue appropriations in alignment with the legislative funding priorities listed below. The commission and council shall consider the priorities and assign a percentage of the total appropriation of new funds to each priority.

(A) Peer equity. -- Funds appropriated for this purpose increase the level of the institutional operating budget for state institutions of higher education comparable to their peer institutions. The allocation shall provide, subject to the availability of funds and legislative appropriations, for a systematic adjustment of the institutional operating budgets to move all institutions' funding in the direction of levels comparable with their peers. Institutional allocations shall be calculated as follows:

(i) A calculation shall be made of the deficiency in per student funding of each institution in comparison with the mean per student funding of the peer institutions as defined by the commission pursuant to section three of this article;

(ii) For all institutions that are deficient in comparison with peer institutions, the amounts of the deficiencies shall be totaled;

(iii) A ratio of the amount of the deficiency for an institution divided by the total amounts of deficiency for all West Virginia institutions shall be established for each institution; and

(iv) The allocation to each institution shall be calculated by multiplying the ratio by the total amount of money in the account;

(B) Independently accredited community and technical colleges development. -- Funds appropriated for this purpose will ensure a smooth transition, where required, from "component" community and technical colleges to independently accredited community and technical colleges as defined in section two, article one of this chapter. Appropriations for this purpose are to be allocated only to those institutions having approved compacts with the council that expressly include the transition of their component community colleges to independently accredited status and have demonstrated measurable progress towards this goal. By July 1, 2005, or when all required community and technical colleges are independently accredited, whichever first occurs, funds for this purpose shall be allocated to the incentives for institutional contributions to state priorities;

(C) Research challenge. -- Funds appropriated for this purpose shall assist public colleges and universities in West Virginia to compete on a national and international basis by providing incentives to increase their capacity to compete successfully for research funding. The Legislature intends for institutions to collaborate in the development and execution of research projects to the extent practicable and to target research to the needs of the state as established in the public policy agenda and linked to the future competitiveness of this state.

(i) The commission shall develop criteria for awarding grants to institutions under this account, which may include, but are not limited to, the following:

(I) Grants to be used to match externally funded, peer-reviewed research;

(II) Grants to be used to match funds for strategic institutional investments in faculty and other resources to increase research capacity;

(III) Grants to support funding for new research centers and projects that will foster economic development and workforce investment within the state. These grants shall be limited to five years and each research center or project funded shall receive a decreasing award each year and shall be required to be supported solely by external funding within five years;

(ii) The commission may establish an advisory council consisting of nationally prominent researchers and scientists, including representatives from outside the state, to assist in developing the criteria for awarding grants under this account.

(iii) For the purposes of making the distributions from this account, the commission shall establish the definition for research, research funds and any other terms as may be necessary to implement this subdivision; and

(D) Incentives for institutional contributions to state priorities. -- Funds appropriated for this purpose provide incentives to institutions which demonstrate success toward advancing the goals of the public policy agenda as set forth in section one-a, article one of this chapter and to provide incentives for mission enhancement as set forth in section two of this article.

(E) Sustained quality support. -- The commission and council shall provide additional operating funds to institutions under their respective jurisdictions with approved compacts. The commission and council shall allocate these funds on an equal percentage basis to all institutions. The commission or council may delay distribution of these funds to any institution which does not demonstrate measurable progress towards the goals provided in its compact with the commission or council.

(c) Allocations to institutional operating budgets. -- For the purposes of this subsection, the commission and council each shall establish by rule pursuant to subsection (f), section two of this article the method for measuring the progress of each institution towards meeting the benchmarks of its institutional compact.

(d) Allocation of appropriations to the institutions. -- Appropriations in this section shall be allocated to the state institutions of higher education in the following manner:

(1) Each fiscal year appropriations from the funds shall be allocated only to institutions which have:

(A) Approved compacts, pursuant to section two of this article; and

(B) Achieved their annual benchmarks for accomplishing the goals of their compacts, as approved by the commission or council.

(2) If an institution has not achieved all of its annual benchmarks, the commission or council may distribute a portion of the funds to the institution based on its progress as the commission or council determines appropriate. The commission and council each shall establish by rule, pursuant to subsection (f), section two of this article, the method for measuring the progress of each institution toward meeting the benchmarks of its institutional compact.

(e) Nothing in this section limits the appropriation or collection of fees necessary to effectuate the operation and purpose of the commission or council.

## **WV Code §18B-1B-4**

### **§18B-1B-4. Powers and duties of Higher Education Policy Commission.**

(a) The primary responsibility of the commission is to provide shared services in a cost-effective manner upon request to the state colleges and universities, the council, and the community and technical colleges; undertake certain statewide and regional initiatives as specifically designated in this chapter, including those related to the administration of grants and scholarships and including those in conjunction with the council; to review, confirm or approve certain actions undertaken by governing boards, as delineated in this chapter; and assist in the development of policy that will achieve the goals, objectives and priorities found in section one-a, article one and article one-d of this chapter. The commission shall exercise its authority and carry out its responsibilities in a manner that is consistent and not in conflict with the powers and duties assigned by law to the West Virginia Council for Community and Technical College Education and the powers and duties assigned to the governing boards. To that end, the commission has the following powers and duties relating to the governing boards under its jurisdiction:

(1) Develop and advance the public policy agenda pursuant to article one-d of this chapter to address major challenges facing the state, including, but not limited to, the following:

(A) The goals, objectives and priorities established in this chapter including specifically those goals, objectives and priorities pertaining to the compacts created pursuant to section seven, article one-d of this chapter; and

(B) Development of the master plan described in section five, article one-d of this chapter for the purpose of accomplishing the mandates of this section;

(2) Develop, oversee and advance the promulgation and implementation of a financing rule for state institutions of higher education under its jurisdiction except the exempted schools. The rule shall meet the following criteria:

(A) Provide for an adequate level of educational and general funding for institutions pursuant to section five, article one-a of this chapter;

(B) Serve to maintain institutional assets, including, but not limited to, human and physical resources and eliminating deferred maintenance; and

(C) Invest and provide incentives for achieving the priority goals in the public policy agenda, including, but not limited to, those found in section one-a, article one and article one-d of this chapter;

(3) In collaboration with the council and the governing boards:

(A) Building public consensus around and sustaining attention to a long-range public policy agenda. In developing the agenda, the commission and council shall seek input from the Legislature, the Governor, the governing boards, and specifically from the State Board of

Education and local school districts in order to create the necessary linkages to assure smooth, effective and seamless movement of students through the public education and post-secondary education systems and to ensure that the needs of public school courses and programs can be fulfilled by the graduates produced and the programs offered;

(B) Assisting governing boards to carry out their duty effectively to govern the individual institutions of higher education;

(4) Except the exempted schools, review and comment on each compact for the governing boards under its jurisdiction, and final confirmation of each compact;

(5) Review and confirm the bi-annual updates of the institutional compacts, except the exempted schools;

(6) Serve as a point of contact to state policymakers:

(A) The Governor for the public policy agenda; and

(B) The Legislature by maintaining a close working relationship with the legislative leadership and the Legislative Oversight Commission on Education Accountability.

(7) Upon request, provide shared services to a state institution of higher education;

(8) Administer scholarship and grant programs as provided for in this code;

(9) Establish and implement the benchmarks and performance indicators for state colleges and universities necessary to measure institutional progress in achieving state policy priorities and institutional missions pursuant to section seven, article one-d of this chapter;

(10) Establish a formal process for recommending capital investment needs and for determining priorities for state colleges and universities for these investments for consideration by the Governor and the Legislature as part of the appropriation request process pursuant to article nineteen of this chapter;

(11) Except the exempted schools, develop standards and evaluate governing board requests for capital project financing in accordance with article nineteen of this chapter;

(12) Except the exempted schools, ensure that governing boards manage capital projects and facilities needs effectively, including review and approval of capital projects, in accordance with article nineteen of this chapter;

(13) Acquire legal services as considered necessary, including representation of the commission, the governing boards, employees and officers before any court or administrative body, notwithstanding any other provision of this code to the contrary. The counsel may be employed either on a salaried basis or on a reasonable fee basis. In addition, the commission may, but is not

required to, call upon the Attorney General for legal assistance and representation as provided by law;

(14) Employ a Chancellor for Higher Education pursuant to section five of this article;

(15) Employ other staff as necessary and appropriate to carry out the duties and responsibilities of the commission and the council, in accordance with article four of this chapter;

(16) Provide suitable offices in Kanawha County for the chancellor, vice chancellors and other staff;

(17) Advise and confirm in the appointment of the presidents of the institutions of higher education under its jurisdiction pursuant to section six of this article, except the exempted schools. The role of the commission in confirming an institutional president is to assure through personal interview that the person selected understands and is committed to achieving the goals, objectives and priorities set forth in the compact, in section one-a, article one and article one-d of this chapter;

(18) Approve the total compensation package from all sources for presidents of institutions under its jurisdiction, except the exempted schools, as proposed by the governing boards. The governing boards, except the exempted schools, must obtain approval from the commission of the total compensation package both when institutional presidents are employed initially and afterward when any change is made in the amount of the total compensation package: Provided, That the Commission will receive notice, but need not approve or confirm, an increase in the compensation of an institutional president that is exactly in the ratio of compensation increases allocated to all institutional employees and approved by the governing board to expressly include the president;

(19) Assist and facilitate the work of the institutions to implement the policy of the state to assure that parents and students have sufficient information at the earliest possible age on which to base academic decisions about what is required for students to be successful in college, other post-secondary education and careers related, as far as possible, to results from current assessment tools in use in West Virginia;

(20) Approve and implement a uniform standard jointly with the council to determine which students shall be placed in remedial or developmental courses. The standard shall be aligned with college admission tests and assessment tools used in West Virginia and shall be applied uniformly by the governing boards. The chancellors shall develop a clear, concise explanation of the standard which they shall communicate to the State Board of Education and the state superintendent of Schools;

(21) Jointly with the council, develop and implement an oversight plan to manage systemwide technology except the exempted schools, including, but not limited to, the following:

(A) Expanding distance learning and technology networks to enhance teaching and learning, promote access to quality educational offerings with minimum duplication of effort; and

(B) Increasing the delivery of instruction to nontraditional students, to provide services to business and industry and increase the management capabilities of the higher education system.

(C) Notwithstanding any other provision of law or this code to the contrary, the council, commission and governing boards are not subject to the jurisdiction of the Chief Technology Officer for any purpose;

(22) Establish and implement policies and procedures to ensure that a student may transfer and apply toward the requirements for a bachelor's degree the maximum number of credits earned at any regionally accredited in-state or out-of-state community and technical college with as few requirements to repeat courses or to incur additional costs as are consistent with sound academic policy;

(23) Establish and implement policies and procedures to ensure that a student may transfer and apply toward the requirements for any degree the maximum number of credits earned at any regionally accredited in-state or out-of-state higher education institution with as few requirements to repeat courses or to incur additional costs as are consistent with sound academic policy;

(24) Establish and implement policies and procedures to ensure that a student may transfer and apply toward the requirements for a master's degree the maximum number of credits earned at any regionally accredited in-state or out-of-state higher education institution with as few requirements to repeat courses or to incur additional costs as are consistent with sound academic policy;

(25) Establish and implement policies and programs, in cooperation with the council and the governing boards, through which a student who has gained knowledge and skills through employment, participation in education and training at vocational schools or other education institutions, or Internet-based education programs, may demonstrate by competency-based assessment that he or she has the necessary knowledge and skills to be granted academic credit or advanced placement standing toward the requirements of an associate's degree or a bachelor's degree at a state institution of higher education;

(26) Seek out and attend regional, national and international meetings and forums on education and workforce development-related topics as, in the commission's discretion, are critical for the performance of their duties as members, for the purpose of keeping abreast of education trends and policies to aid it in developing the policies for this state to meet the established education goals, objectives and priorities pursuant to section one-a, article one and article one-d of this chapter;

(27) Promulgate and implement a rule for higher education governing boards and institutions, except the exempted schools, to follow when considering capital projects pursuant to article nineteen of this chapter, which rule shall provide for appropriate deference to the value judgments of governing boards under the jurisdiction of the commission;

(28) Submit to the appropriate agencies of the executive and legislative branches of state government an appropriation request that reflects recommended appropriations for the commission and the governing boards under its jurisdiction. The commission shall submit as part of its appropriation request the separate recommended appropriation request it received from the council, both for the council and for the governing boards under the council's jurisdiction, including the exempted schools. The commission annually shall submit the proposed allocations based on each institution's progress toward meeting the goals of its compact;

(29) The commission may assess institutions under its jurisdiction, including the exempted schools, for the payment of expenses of the commission or for the funding of statewide higher education services, obligations or initiatives related to the goals set forth for the provision of public higher education in the state: Provided, That the commission may not assess institutions pursuant to this subdivision on or after July 1, 2018;

(30) Promulgate rules allocating reimbursement of appropriations, if made available by the Legislature, to governing boards for qualifying noncapital expenditures incurred in providing services to students with physical, learning or severe sensory disabilities;

(31) Pursuant to article three-a, chapter twenty-nine-a of this code and section six, article one of this chapter, promulgate rules necessary or expedient to fulfill the purposes of this chapter;

(32) Determine when a joint rule among the governing boards under its jurisdiction is necessary or required by law and, in those instances, in consultation with the governing boards under its jurisdiction, promulgate the joint rule;

(33) Promulgate and implement a rule jointly with the council whereby course credit earned at a community and technical college transfers for program credit at any other state institution of higher education and is not limited to fulfilling a general education requirement;

(34) By October 1, 2011, promulgate a rule pursuant to section one, article ten of this chapter, establishing tuition and fee policy for all governing boards under the jurisdiction of the commission, except the exempted schools. The rule shall include, but is not limited to, the following:

(A) Differences among institutional missions;

(B) Strategies for promoting student access;

(C) Consideration of charges to out-of-state students; and

(D) Such other policies as the commission and council consider appropriate;

(35) Assist governing boards in actions to implement general disease awareness initiatives to educate parents and students, particularly dormitory residents, about meningococcal meningitis; the potentially life-threatening dangers of contracting the infection; behaviors and activities that can increase risks; measures that can be taken to prevent contact or infection; and potential



benefits of vaccination. The commission shall encourage governing boards that provide medical care to students to provide access to the vaccine for those who wish to receive it; and

(36) Notwithstanding any other provision of this code to the contrary sell, lease, convey or otherwise dispose of all or part of any real property that it owns, in accordance with article nineteen of this chapter.

(37) Policy analysis and research focused on issues affecting institutions of higher education generally or a geographical region thereof;

(38) Development and approval of institutional mission definitions except the exempted schools, including use of incentive funds to influence institutional behavior in ways that are consistent with public priorities;

(39) Academic program review and approval for governing boards under its jurisdiction. The review and approval includes use of institutional missions as a template to judge the appropriateness of both new and existing programs and the authority to implement needed changes.

(A) The commission's authority to review and approve academic programs for the exempted schools is limited to programs that are proposed to be offered at a new location not presently served by that institution: Provided, That West Virginia University and the West Virginia University Institute of Technology are subject to the commission's authority as provided in section two, article one-c of this chapter;

(B) In reviewing and approving academic programs, the commission shall focus on the following policy concerns:

(1) New programs should not be implemented which change the institutional mission, unless the institution also receives approval for expanding the institutional mission;

(2) New programs which will require significant additional expense investments for implementation should not be implemented unless the institution demonstrates that:

(i) The expenses will be addressed by effective reallocations of existing institutional resources; or

(ii) The expenses can be legitimately spread out over future years and will be covered by reasonably anticipated additional net revenues from new enrollments;

(3) A new undergraduate program which is significantly similar to an existing program already in the geographic service area should not be implemented unless the institution requesting the new program demonstrates a compelling need in the service area that is not being met by the existing program: Provided, That the academic programs of the exempted schools are not to be taken into consideration except as it relates to academic programs offered at West Virginia University in Beckley and West Virginia University Institute of Technology in Beckley.

(C) The commission shall approve or disapprove proposed academic degree programs in those instances where approval is required as soon as practicable. The commission shall maintain by rule a format model by which a new program approval shall be requested by an institution. When a request for approval of a new program is submitted to the commission, the chancellor shall provide notice within two weeks as to whether the submission meets the required format, and if it does not the chancellor shall identify each specific deficiency and return the request to the institution. The institution may re-file the request for approval with the commission to address any identified deficiencies. Within thirty days after the chancellor's confirmation that the request meets the required format, the commission shall either approve or disapprove the request for the new program. The commission may not withhold approval unreasonably.

(40) Distribution of funds appropriated to the commission, including incentive and performance-based funds;

(41) Administration of state and federal student aid programs under the supervision of the vice chancellor for administration, including promulgation of rules necessary to administer those programs;

(42) Serving as the agent to receive and disburse public funds when a governmental entity requires designation of a statewide higher education agency for this purpose;

(43) Developing and distributing information, assessment, accountability and personnel systems for state colleges and universities, including maintaining statewide data systems that facilitate long-term planning and accurate measurement of strategic outcomes and performance indicators;

(44) Jointly with the council, promulgating and implementing rules for licensing and oversight for both public and private degree-granting and nondegree-granting institutions that provide post-secondary education courses or programs in the state. The council has authority and responsibility for approval of all post-secondary courses or programs providing community and technical college education as defined in section two, article one of this chapter;

(45) Developing, facilitating, and overseeing statewide and regional projects and initiatives related to providing post-secondary education at the baccalaureate level and above such as those using funds from federal categorical programs or those using incentive and performance-based funds from any source;

(46) (A) For all governing boards under its jurisdiction, except for the exempted schools, the commission shall review institutional operating budgets, review and approve capital budgets, and distribute incentive and performance-based funds;

(B) For the governing boards of, the exempted schools, the commission shall distribute incentive and performance-based funds and may review and comment upon the institutional operating budgets and capital budgets. The commission's comments, if any, shall be made part of the governing board's minute record and shall be filed with the Legislative Oversight Commission on Education Accountability;

(47) May provide information, research, and recommendations to state colleges and universities relating to programs and vocations with employment rates greater than ninety percent within six months post-graduation; and

(48) May provide information, research and recommendations to state colleges and universities on coordinating with the West Virginia State Board of Education about complimentary programs.

(b) In addition to the powers and duties provided in subsections (a) and (b) of this section and any other powers and duties assigned to it by law, the commission has other powers and duties necessary or expedient to accomplish the purposes of this article: Provided, That the provisions of this subsection shall not be construed to shift management authority from the governing boards to the commission.

(c) The commission may withdraw specific powers of a governing board under its jurisdiction for a period not to exceed two years, if the commission determines that any of the following conditions exist:

(1) The commission has received information, substantiated by independent audit, of significant mismanagement or failure to carry out the powers and duties of the governing board according to state law; or

(2) Other circumstances which, in the view of the commission, severely limit the capacity of the governing board to exercise its powers or carry out its duties and responsibilities.

The commission may not withdraw specific powers for a period exceeding two years. During the withdrawal period, the commission shall take all steps necessary to reestablish sound, stable and responsible institutional governance.

(d) The Higher Education Policy Commission shall examine the question of general revenue appropriations to individual higher education institutions per student, and per credit hour, and by other relevant measures at all higher education institutions, including four-year baccalaureate institutions and the community and technical colleges, and on or before January 1, 2018, the commission shall deliver its report to the Joint Committee on Government and Finance and the Legislative Oversight Commission on Education Accountability. This report shall include a recommendation to the Legislature on a formula for the allocation of general revenue to be appropriated to such institutions that provides for ratable funding across all four-year institutions and community and technical colleges on a ratable basis, by enrolled student, by credit hour or by other relevant measures. On such basis, the commission shall make a recommendation to the Legislature as to the amounts that each such institution should have appropriated to it in the general revenue budget for fiscal year 2019, based upon the total general revenue appropriations that such institutions receive in aggregate in the enacted budget for fiscal year 2018.

## **WV Code §18B-1D-5**

### **§18B-1D-5. Master plans; reports; approval process.**

(a) The commission and the council each shall develop a master plan for public higher education that is closely aligned with the goals and objectives of this article and section one-a, article one of this chapter as they relate to the missions of institutions under their respective jurisdictions.

(b) The authority of the commission and the council, respectively, related to developing and implementing statewide master plans is subject to the following conditions:

(1) The master plans shall be established for periods of not more than five years.

(2) The master plans in place on the effective date of this article continue in effect until the end of the five-year planning cycle unless amended or rescinded by the commission or council, respectively, pursuant to this article.

(3) Any new master plan proposed by the commission or council shall be communicated to the Legislative Oversight Commission on Education Accountability and may not be adopted or implemented without the approval of that body;

(4) The commission and council each shall perform a comprehensive review of its master plan at least annually and shall revise it periodically as appropriate to meet state goals and objectives.

(5) The commission and the council each shall review the progress of its higher education system in meeting the goals and objectives of the master plan and report to the Legislative Oversight Commission on Education Accountability, with detailed recommendations for amending the plan, by January 1, 2009, and annually thereafter.

(6) At the end of each five-year planning cycle and as an integral part of the preparation of a new master plan, the commission and the council, respectively, shall prepare and submit to the Legislative Oversight Commission on Education Accountability a comprehensive report containing at least the following:

(A) A detailed, data-based analysis of the progress of the system and the institutions within the system toward meeting each goal and objective included in the current plan; and

(B) A strategy for using this data as a basis for developing the master plan for the next planning cycle.

(c) The master plan shall include a detailed set of system objectives designed to meet the state goals and objectives outlined in this article and section one-a, article one of this chapter, including, but not limited to, the following:

(A) A well-developed analysis of missions, degree offerings, resource requirements, physical plant needs, personnel needs, enrollment levels and other planning determinants and projections

for public higher education and other matters necessary in such a plan to assure that the needs of the state for a quality system of higher education are addressed; and

(B) A strategy for cooperation and collaboration with the state Board of Education and State Department of Education, state institutions of higher education, the counterpart state coordinating board and other relevant education providers to assure that a comprehensive and seamless system of education is developed and implemented for West Virginia.

## **WV Code §18B-1D-8**

### **§18B-1D-8. Institutional and system report cards.**

(a) The purpose of the institutional and statewide report cards is to make information available to parents, students, faculty, staff, state policymakers and the general public on the quality and performance of public higher education. The focus of the report cards is to determine annual progress of the commission, the council and institutions under their respective jurisdictions toward achieving state goals and objectives identified in this article and section one-a, article one of this chapter and system goals and objectives contained in the statewide master plans of the commission and council created pursuant to section five of this article.

(b) The information contained in the report cards shall be consistent and comparable between and among state institutions of higher education. If applicable, the information shall allow for easy comparison with higher education-related data collected and disseminated by the Southern Regional Education Board, the United States Department of Education and other education data-gathering and data-disseminating organizations upon which state policymakers frequently rely in setting policy.

(c) The rules required by subsection (c), section one of this article shall provide for the collection, analysis and dissemination of information on the performance of the state institutions of higher education, including health sciences education, in relation to the findings, goals and objectives set forth in this article and section one-a, article one of this chapter and those contained in the statewide master plans of the commission and council developed pursuant to section five of this article.

(1) The objective of this portion of the rule is to ensure that the Legislative Oversight Commission on Education Accountability and others identified in subsection (a) of this section are provided with full and accurate information while minimizing the institutional burden of recordkeeping and reporting.

(2) This portion of the rule shall identify various indicators of student and institutional performance that, at a minimum, must be reported annually, set forth general guidelines for the collection and reporting of data and provide for the preparation, printing and distribution of report cards under this section.

(d) The report cards shall be analysis-driven, rather than simply data-driven, and shall present information in a format that can inform education policymaking. They shall include an executive summary which outlines significant trends, identifies major areas of concern and discusses progress toward meeting state and system goals and objectives. They shall be brief and concise, reporting required information in nontechnical language. Any technical or supporting material to be included shall be contained in a separate appendix.

(e) The statewide report card shall include the data for each separately listed, applicable indicator identified in the rule promulgated pursuant to subsection (c) of this section and the aggregate of the data for all public institutions of higher education.

(f) The statewide report card shall be prepared using actual institutional, state, regional and national data, as applicable and available, indicating the present performance of the individual institutions, the governing boards and the state systems of higher education. Statewide report cards shall be based upon information for the current school year or for the most recent school year for which the information is available, in which case the year shall be clearly noted.

(g) The president or chief executive officer of each state institution of higher education shall prepare and submit annually all requested data to the commission at the times established by the commission.

(h) The higher education central office staff, under the direction of the Vice Chancellor for Administration, shall provide technical assistance to each institution and governing board in data collection and reporting and is responsible for assembling the statewide report card from information submitted by each governing board.

(i) The statewide report card shall be completed and disseminated with copies to the Legislative Oversight Commission on Education Accountability prior to January 1 of each year and the staff of the commission and the council shall prepare a report highlighting specifically the trends, progress toward meeting goals and objectives and major areas of concern for public higher education, including medical education, for presentation to the Legislative Oversight Commission on Education Accountability at the interim meetings in January, 2009, and annually thereafter.

(j) For a reasonable fee, the Vice Chancellor for Administration shall make copies of the report cards, including any appendices of supporting material, available to any individual requesting them.

## **WV Code §18B-1D-8a**

### **§18B-1D-8a. Modification to reporting requirements to the Legislative Oversight Commission on Education Accountability.**

(a) Notwithstanding any other provisions of this code to the contrary, the following statutorily mandated reports are not required to be prepared and submitted annually to the Legislature but this information and data previously contained therein shall be combined with other reports in a manner that reduces the cost and increases the efficacy of those reports. This includes:

(1) All personnel, classification, compensation and human resources reports set out in section four, article one-b of this chapter, section six, article two-b of this chapter and article nine-a of this chapter;

(2) All capital appropriation requests, priorities and campus and state capital development plans set out in section four, article one-b of this chapter, section six, article two-b of this chapter and article nineteen of this chapter;

(3) All academic related matters and reports including those detailing institutional reauthorization at section seven, article four of this chapter; training of institutional Boards of Governors set out in section nine, article one-d of this chapter and section one, article ten of this chapter dealing with institutional compliance with tuition and fee increases;

(4) All financial aid reports including PROMISE, HEAPS, the Higher Education Grant Program, the Nursing Scholarship Program, the Underwood-Smith Teacher Scholarship Program and others set out in chapter eighteen-c of this code.

(b) In order to create more efficiency, reporting deadlines of statutorily or rule mandated reports may be altered, as needed by the Commission without a statutory or rule-making change. Provided, That the reports are always provided within any given calendar year.



## **WV Code §18B-1D-9**

### **§18B-1D-9. Commission, council and institutional governing board training and development; training and development requirements, applicability and exceptions.**

(a) The commission and council, either jointly or separately, shall coordinate periodic training and development opportunities for members of the commission, council and institutional governing boards as provided in this section.

The training and development shall address the following topics:

- (1) State goals, objectives and priorities for higher education;
- (2) The accountability system for higher education set forth in this article;
- (3) The general powers and duties of members; and
- (4) Ethical considerations arising from board membership.

(b) Training and development is required as follows:

(1) A member newly appointed to the commission, council or a governing board shall complete three hours of training and development by the end of the first fiscal year of service if the appointment is made in the first half of a fiscal year. If the appointment is made in the second half of a fiscal year the member shall complete three hours of training and development by the end of the first half of the second fiscal year.

(2) With the exception of the ex officio members of the commission and the council and the student member of a governing board, each member shall complete at least six hours of training and development related to his or her duties within two fiscal years of beginning service and within every two fiscal years of service thereafter.

(c) Annually, by July 31, the chair of the commission, council and each governing board shall certify to the commission or council, as appropriate, the number of hours of training and development that each member received during the preceding fiscal year.

(d) If the certification indicates that a board member has not completed the training and development required by this section, the commission or council, as appropriate, shall send a notice to the affected board member, and to the Governor and the Secretary of State or to the institutional appointing entity that the board member is disqualified from continued service notwithstanding the provisions of sections five and six, article six, chapter six of this code. The commission or council, as appropriate, shall request the Governor or appointing entity to appoint a replacement for that board member.

(e) Annually, by September 30, the commission and council shall report to the Legislative Oversight Commission on Education Accountability on the training and development that

members of the commission and council and the governing boards under their respective jurisdictions have received during the preceding fiscal year. This information shall be included in the institutional and statewide report cards provided in section eight of this article.

(f) As used in this section, "member" means all members of the commission, council and the governing boards unless a specific exception is provided in this section.

## **WV Code §18B-3-4**

### **§18B-3-4. Duty of governing boards to address state priorities.**

The expertise of faculty and graduate students at state institutions of higher education is important to every citizen of this state. It is the responsibility of the governing boards to channel this expertise into research and analysis that will yield measurable benefits to the citizens of West Virginia. Therefore, in addition to the goals, objectives and priorities established in section one-a, article one and article one-d of this chapter and goals established elsewhere in this code, it is the responsibility of the governing boards to concentrate attention and resources on certain specific state priorities that have a direct, positive impact on the economic, social and cultural well-being of the people of West Virginia.

(a) Priorities for Marshall University and West Virginia University in collaboration:

(1) Developing Regional Brownfield Assistance Centers pursuant to section seven, article eleven of this chapter;

(2) Performing professional development-related research and coordinating the delivery of professional development to educators in the public schools of the state pursuant to article two, chapter eighteen of this code; and

(3) Building subject matter expertise in public education finance, including mastery of the theories and concepts used in developing formulas to provide state-level financial support to public education.

(b) The Legislature may, but is not required to, make additional appropriations for the benefit of Marshall University and West Virginia University to assist them in fulfilling the purposes set forth in subsection (a) of this section.

(c) Additional priorities for governing boards:

(d) In addition to the priorities established in subsection (a) of this section, each governing board under the jurisdiction of the commission shall focus resources and attention on improving its graduation rate for full-time undergraduate students as a specific institutional priority. The graduation rate is measured as a percentage of the number of undergraduate students who obtain a degree within six years of the date of enrollment as full-time freshmen.

(1) By July 1, 2015, the governing board of each state institution of higher education under the jurisdiction of the commission, including the governing boards of Marshall University and West Virginia University, shall attain a graduation rate for full-time undergraduate students that equals or exceeds the graduation rate of its peers established pursuant to section three, article one-a of this chapter.

(2) The commission shall monitor and report annually by December 1, to the Legislative Oversight Commission on Education Accountability on the progress of the governing boards toward meeting the goals set forth in this subsection.

## **WV Code §18B-4-7**

### **§18B-4-7. Accreditation of institutions of higher education; standards for degrees.**

(a) The council shall make rules for the accreditation of community and technical colleges in this state and shall determine the minimum standards for conferring degrees. The commission shall make rules for the accreditation of colleges in this state except the governing boards of the exempted schools shall make rules for their respective institutions, and each shall determine the minimum standards for conferring degrees. The governing boards of the exempted schools shall promulgate rules pursuant to the provisions of section six, article one of this chapter for the accreditation of their respective institutions.

(b) An institution of higher education may not confer a degree on any basis of work or merit below the minimum standards prescribed by the council or commission.

(c) With the approval of the commission and subject to subsections (e), (f) and (g) of this section, governing boards of institutions which currently offer substantial undergraduate course offerings and a master's degree in a discipline are authorized to grant baccalaureate degrees in that discipline.

(d) Except as otherwise provided in this section, a charter or other instrument containing the right to confer degrees of higher education status may not be granted by the State of West Virginia to an institution, association or organization within the state, nor may a degree be awarded, until the condition of conferring the degree first has been approved in writing by the council or commission, as appropriate, or by the institution's governing board in the case of the exempted schools.

(e) To retain the authority to confer degrees pursuant to this section, each institution shall provide annually to the commission or council, as requested, all information the commission or council considers necessary to assess the performance of the institution and to determine whether the institution continues to meet the minimum standards for conferring degrees. This information includes, but is not limited to, the following data:

(1) All information current and future federal or state laws and regulations require the institution to report to the public, to students, to employees or to federal or state agencies;

(2) Other consumer information the commission or council considers necessary, including, but not limited to, graduation and retention rates, transfers, post-graduation placements, loan defaults and numbers and types of student complaints;

(3) A detailed explanation of financial operations including, but not limited to, policies, formulas and procedures related to calculation, payment and refund for all tuition and fees; and

(4) An assessment of the adequacy of the institution's curriculum, personnel, facilities, materials and equipment to meet the minimum standards for conferring degrees.

(f) The commission and council may conduct on-site reviews to evaluate an institution's academic standards, may conduct financial audits, or may require the institution to perform these audits and provide detailed data to the commission or council.

(g) The commission or council shall revoke an institution's authority to confer degrees when the institution's governing body, chief executive officer, or both, have done any one or more of the following:

(1) Failed to maintain the minimum standards for conferring degrees; or

(2) Willfully provided false, misleading or incomplete information to the commission or council.

(h) The commission and council each shall compile the information collected pursuant to subdivisions (e), (f) and (g) of this section and submit a report on the information to the Legislative Oversight Commission on Education Accountability annually beginning December 1, 2012. The commission and council each shall make the information and report available to the public in a form and manner that is accessible to the general public, including, but not limited to, posting on its website.

## **WV Code §18B-4-9**

### **§18B-4-9. Development of services and facilities for student veterans.**

(a) Legislative findings. -- The Legislature finds that veterans of the Armed Forces of the United States that attend institutions of higher education in this state have many unique needs, issues and concerns that most traditional students do not have. Many of these veterans have had or will be subject to multiple deployments to active duty, including overseas deployment, resulting in challenges to their pursuit of higher education.

(b) Legislative intent. -- It is the intent of the Legislature that state institutions of higher education provide adequate services and facilities for student veterans in order to better serve their unique needs and to make West Virginia's state institutions of higher education veteran-friendly.

(c) The commission, council and each state institution of higher education shall establish and implement measures to assure that veterans enrolled in the institutions receive services and are provided facilities appropriate for their needs, that student veterans complete programs of study and earn degrees, and that the institutions become veteran-friendly by actively and effectively providing academic and social support and assistance to student veterans. The measures shall include, but are not limited to, the following:

(1) Establishing veteran-friendly community and technical college degree programs which recognize and award academic credit toward degrees for various types of technical and vocational military training and experience;

(2) Developing policies for each state institution of higher education to grant academic credit for Armed Forces experiences;

(3) Developing programs to encourage student veterans to share their specialized experience and knowledge gained through military service by making presentations in class, public school programs and local community organizations;

(4) Establishing and sponsoring an organization for student veterans on campus and encouraging other veteran-friendly organizations;

(5) Appointing and training specific faculty within each degree program or major as liaisons and contacts for student veterans;

(6) Providing information about programs that grant credit for prior learning to student veterans and potential student veterans;

(7) Coordinating existing disability services on campus with veteran disability services available from the United States Department of Veterans Affairs, other federal and state agencies, and private resources;

(8) Designating individuals to provide financial and psychological counseling services on each campus who are trained to effectively respond to the needs of veterans and to provide services or referrals to services to fulfill these needs for student veterans, and to the extent practicable, providing those services and programs in one location;

(9) Developing training materials on responding to student veteran needs to be available for continued professional development of counselors to student veterans;

(10) Facilitating regular statewide meetings for all personnel at state institutions of higher education who regularly provide specific services to student veterans to discuss and develop best practices, exchange ideas and experiences, and hear presentations by individuals with generally accepted expertise in areas of the various needs of student veterans;

(11) Gathering data on the status of student veterans, including their graduation rates, comparing that rate with the graduation rate of other students in the institution, and reporting those results to appropriate state and federal agencies, including the West Virginia Legislature;

(12) Establishing a program to create a collaborative relationship between student veterans and alumni of the institution, and with prospective employers to facilitate and provide employment as well as social opportunities to graduating student veterans;

(13) Developing and facilitating communications between state institutions of higher education and various veteran organizations in the state to advance veteran causes that benefit student veterans; and

(14) Coordinating among all relevant departments within each state institution of higher education including but not limited to admissions, the registrar, the bursar, the veterans advocate and financial aid to ensure that relevant deadlines or time-lines are met for certifying veterans' enrollment as early as practicable to ensure that assistance is received from the U.S. Department of Veterans Affairs (DVA) in a timely fashion. Measures to achieve greater coordination shall include but are not limited to:

(A) Identifying applicants who are veterans as early as possible;

(B) Taking affirmative steps to reach out to veteran applicants to inform them of relevant policies, time-lines or deadlines for receiving veterans assistance;

(C) Developing a communications plan between departments, applicants and students to ensure that deadlines or time-lines are being met;

(D) Developing plans to assist students when U.S. Department of Veterans Affairs benefits are not received in a timely fashion. Such plans could include forbearance of payment deadlines, short-term loans, grants, or a revolving fund.



(E) Making every effort to provide sufficient class sections to meet the needs of students for classes which are required for graduation, including where appropriate, giving student veterans priority registration.

(d) Veterans Advocates. -- Each state institution of higher education shall appoint or designate and train a person, preferably a veteran, to serve as a veterans advocate on its campus. The commission and council shall also provide training for veterans advocates at each of the institutions under their respective jurisdictions. The veterans advocate shall serve as the primary point of contact and campus advocate for current and prospective students who are veterans of the Armed Forces of the United States or are current members of the Armed Forces of the United States, including reserve components of the National Guard of this state or any other state. The duties and responsibilities of the veterans advocate include, but are not limited to the following:

(1) Assist and facilitate student veterans in utilizing services, resources and facilities available at the institution; and

(2) To the extent resources are available for such purposes, provide services, programs and assistance to current and prospective student veterans designed to encourage, promote and facilitate the recruitment, retention and academic success of such students.

(e) The commission and council jointly shall submit a report to the Legislature on September 1, annually, on the progress toward implementing this section.

## **WV Code §18B-5-7**

### **§18B-5-7. Disposition of obsolete and unusable equipment, surplus supplies and other unneeded materials.**

(a) The commission, the council and the governing boards shall dispose of obsolete and unusable equipment, surplus supplies and other unneeded materials, either by transfer to other governmental agencies or institutions, by exchange or trade, or by sale as junk or otherwise. The commission, the council and each governing board shall adopt rules governing and controlling the disposition of all such equipment, supplies and materials. The rules shall provide for disposition of the equipment, supplies and materials as sound business practices warrant under existing circumstances and conditions and for adequate prior notice to the public of the disposition.

(b) The commission, council or governing board, as appropriate, shall report biannually to the Legislative Auditor all sales of commodities made during the preceding biennium. The report shall include a description of the commodities sold, the name of the buyer to whom each commodity was sold, the price paid by the buyer.

(c) The proceeds of sales or transfers shall be deposited in the state treasury to the credit on a pro rata basis of the fund or funds from which the purchase of the particular commodities or expendable commodities was made. The commission, council or governing board, as appropriate, may charge and assess fees reasonably related to the costs of care and handling with respect to the transfer, warehousing, sale and distribution of state property that is disposed of or sold pursuant to the provisions of this section.

(d) Notwithstanding the provisions of this section, the commission, council or a governing board may donate equipment, supplies and materials with the approval of the commission, council or governing board or their designee, as appropriate to any not for profit entity to promote public welfare.

## **WV Code §18B-7-8**

### **§18B-7-8. Reporting.**

(a) Personnel reports. —

(1) Beginning December 1, 2020 and every five years thereafter, the commission and council shall report to the Legislative Oversight Commission on Education Accountability addressing the following issues:

(A) Progress made by organizations toward achieving fair compensation of all employees; and

(B) Detailed data disaggregated by organization and employee category or classification, comparing funding for salaries of faculty, classified employees and nonclassified employees as a percentage of the average funding for each of these classes or categories of employees among the organization's state, region or national markets, as appropriate, and among similar organizations within the state systems of public higher education.

(2) The commission and council shall prepare a human resources report card summarizing the performance of organizations on key human resources measures established by the commission and council. The report card shall be presented to the Legislative Oversight Commission on Education Accountability every five years, beginning December 1, 2020, and shall be made available to the general public. At a minimum, the human resources report card shall contain the following data:

(A) Human resources department metrics by organization:

(i) Areas of human resources functions outsourced to external entities;

(ii) Total expenses per full-time equivalent employee; and

(iii) Tuition revenue per full-time equivalent employee.

(B) Human resources expense data:

(i) Ratio of human resources expenses to operating expenses; and

(ii) Total human resources expense per organization employee.

(C) Compensation data:

(i) Average amount of annual salary increase per full-time equivalent organization employee;

(ii) Total amount of organization employee salaries as a percent of operating expenses; and

(iii) Total amount of organization employee benefit costs as a percent of cash compensation.

(D) System metrics:

(i) Comparisons of faculty salaries at each organization to market averages; and

(ii) Comparisons of classified and nonclassified employee salaries at each organization to current market averages.

(b) Job classification system report. —

By July 1, 2016, and at least once within each five-year period thereafter, the commission and council jointly shall review the effectiveness of the system for classifying jobs and submit an in-depth report to the Legislative Oversight Commission on Education Accountability. The report shall include, but is not limited to, findings, recommendations and supporting documentation regarding the following job classification issues:

(1) The effectiveness of the point factor methodology and a determination of whether it should be maintained; and

(2) The status of the job evaluation plan, including the factors used to classify jobs or their relative values, and a determination of whether the plan should be adjusted.

(c) It is the responsibility of the head of human resources for each organization to prepare and submit to the president or chief executive officer all human resources data requested by the commission and council. The president or executive officer of each organization shall submit the requested data at times established by the commission and council.

(d) In meeting reporting requirements established by this article and articles eight, nine and nine-a of this chapter:

(1) The commission and council shall use the most recent data available and, as appropriate, shall benchmark it against best practices and appropriate labor markets; and

(2) With the exception of the human resources report card and any other report designated as due no later than a date certain, the commission and council may combine two or more personnel reports if the dates on which they are due to the Legislature fall within a sixty-day period.

## **WV Code §18B-7-16**

### **§18B-7-16. Study of employment practices.**

(a) The commission and council shall study the following issues relating to employment practices:

(1) Developing a fair and rational policy based upon best human resources practices for covering reductions in force, furloughs and other issues relating to seniority, including determining how employees shall be treated whose salaries are derived from funds other than state appropriations;

(2) Determining the advantages and disadvantages of maintaining the internal preferences for hiring, promoting and transferring classified employees;

(3) Determining the appropriate definition of a "nonclassified" position, recommending a best practice criteria for designating positions as nonclassified and recommending the appropriate number or ratio of nonclassified positions for commission and council organizations.

(4) Recommending a rational, uniform policy to determine the status of employees whose positions are funded, in whole or in part, by an external grant or contract from a federal, state or local government or a private entity.

(b) The commission and council shall complete the work and report their findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate the recommendations, to the Legislative Oversight Commission on Education Accountability upon completion, but no later than January 1, 2018.

# WV Code §18B-10-1

## **§18B-10-1. Enrollment, tuition and other fees at education institutions; refund of fees.**

(a) Each governing board shall fix tuition and other fees for each academic term for the different classes or categories of students enrolling at the state institution of higher education under its jurisdiction, including the fixing of different tuition and fees for online course delivery, and may include among the tuition and fees any one or more of the following as defined in section one-b of this article:

- (1) Tuition and required educational and general fees;
- (2) Auxiliary and auxiliary capital fees; and
- (3) Required educational and general capital fees.

(b) A governing board may establish a single special revenue account for each or all of the following classifications of fees:

- (1) All tuition and required educational and general fees collected;
- (2) All auxiliary and auxiliary capital fees collected; and
- (3) All required educational and general capital fees collected to support existing systemwide and institutional debt service and future systemwide and institutional debt service, capital projects and campus renewal for educational and general facilities.
- (4) Subject to any covenants or restrictions imposed with respect to revenue bonds payable from the accounts, a governing board may expend funds from each special revenue account for any purpose for which funds were collected within that account regardless of the original purpose for which the funds were collected.
- (5) If a governing board of an Exempted School establishes a single special revenue account for all the foregoing classifications of fees in this subsection, the governing board must account for each classification of fee separately in their internal accounting system.

(c) The purposes for which tuition and fees may be expended include, but are not limited to, health services, student activities, recreational, athletic and extracurricular activities. Additionally, tuition and fees may be used to finance a student's attorney to perform legal services for students in civil matters at the institutions. The legal services are limited to those types of cases, programs or services approved by the president of the institution where the legal services are to be performed.

(d) By October 1, 2011, the commission and council each shall propose a rule for legislative approval in accordance with article three-a, chapter twenty-nine-a of this code to govern the

fixing, collection and expenditure of tuition and other fees by the governing boards under their respective jurisdictions.

(e) The schedule of all tuition and fees, and any changes in the schedule, shall be entered in the minutes of the meeting of the appropriate governing board and the board shall file with the commission or council, or both, as appropriate, and the Legislative Auditor a certified copy of the schedule and changes.

(f) The governing boards shall establish the rates to be charged full-time students, as defined in section one-b of this article, who are enrolled during a regular academic term. A governing board shall require by rule all fees be due not later than the end of the academic term, and shall provide for appropriate measures to provide for collections of fees past due.

(1) Undergraduate students taking fewer than twelve credit hours in a regular term shall have their fees reduced pro rata based upon one twelfth of the full-time rate per credit hour and graduate students taking fewer than nine credit hours in a regular term shall have their fees reduced pro rata based upon one ninth of the full-time rate per credit hour.

(2) Fees for students enrolled in summer terms or other nontraditional time periods shall be prorated based upon the number of credit hours for which the student enrolls in accordance with this subsection.

(3) The governing boards may establish rates applicable to tuition and fees for online course delivery without regard to the limitations contained in this subsection.

(g) All fees are due and payable by the student upon enrollment and registration for classes except as provided in this subsection:

(1) The governing boards shall permit fee payments to be made in installments over the course of the academic term.

(2) The governing boards also shall authorize the acceptance of credit cards or other payment methods which may be generally available to students for the payment of fees. The governing boards may charge the students for the reasonable and customary charges incurred in accepting credit cards and other methods of payment.

(3) If a governing board determines that a student's finances are affected adversely by a legal work stoppage, it may allow the student an additional six months to pay the fees for any academic term. The governing board shall determine on a case-by-case basis whether the finances of a student are affected adversely.

(4) A governing board may charge interest or fees for any deferred or installment payment plans.

(h) In addition to the other fees provided in this section, each governing board may impose, collect and distribute a fee to be used to finance a nonprofit, student-controlled public interest research group if the students at the institution demonstrate support for the increased fee in a

manner and method established by that institution's elected student government. The fee may not be used to finance litigation against the institution.

(i) Governing boards shall retain tuition and fee revenues not pledged for bonded indebtedness or other purposes in accordance with the tuition rules proposed by the commission and council pursuant to this section. The tuition rules shall address the following areas:

(1) Providing a basis for establishing nonresident tuition and fees;

(2) Allowing governing boards to charge different tuition and fees for different programs;

(3) Authorizing a governing board to propose to the commission, council or both, as appropriate, a mandatory auxiliary fee under the following conditions: Provided, That the governing boards for the exempted schools may authorize a mandatory auxiliary fee without seeking approval of the commission:

(A) The fee shall be approved by the commission, council or both, as appropriate, and either the students below the senior level at the institution or the Legislature before becoming effective;

(B) Increases may not exceed previous state subsidies by more than ten percent;

(C) The fee may be used only to replace existing state funds subsidizing auxiliary services such as athletics or bookstores;

(D) If the fee is approved, the amount of the state subsidy shall be reduced annually by the amount of money generated for the institution by the fees. All state subsidies for the auxiliary services shall cease five years from the date the mandatory auxiliary fee is implemented;

(4) Establishing methodology, where applicable, to ensure that, within the appropriate time period under the compact, community and technical college tuition rates for students in all community and technical colleges will be commensurate with the tuition and fees charged by their peer institutions.

(j) A penalty may not be imposed by the commission or council upon any governing board based upon the number of nonresidents who attend the institution unless the commission or council determines that admission of nonresidents to any institution or program of study within the institution is impeding unreasonably the ability of resident students to attend the institution or participate in the programs of the institution. The governing boards shall report annually to the commission or council on the numbers of nonresidents and any other enrollment information the commission or council may request.

(k) Tuition and fee increases of the governing boards, except the exempted schools, are subject to rules adopted by the commission and council pursuant to this section and in accordance with article three-a, chapter twenty-nine-a of this code. The commission or council, as appropriate, shall examine individually each request from a governing board, including the exempted schools, for an increase and make its determinations as follows:



(1) A tuition and fee increase for resident students proposed by a governing board requires the approval of the commission or council, as appropriate, for any tuition and fee increase greater than ten percent in any one year or where the increase would be more than seven percent per year, averaged over a rolling three year period calculated by averaging the proposed increase with the increase for the immediate two previous years;

(2) In determining whether to approve or deny a governing board's request for a tuition and/or fee increase for resident students greater than the increases granted pursuant to subdivision (1) of this subsection, the commission or council shall determine the progress the governing board has made toward meeting the conditions outlined in this subsection and shall make this determination the predominate factor in its decision. The commission or council shall consider the degree to which each governing board has met the following conditions:

(A) Maximizes resources available through nonresident tuition and fee charges to the satisfaction of the commission or council;

(B) Consistently achieves the benchmarks established in the compact pursuant to article one-d of this chapter or the master plan for exempted schools in article two-a of this chapter, including the provisions of article one-d required in the master plan;

(C) Continuously pursues the statewide goals for post-secondary education;

(D) Demonstrates to the satisfaction of the commission or council that an increase will be used to maintain high-quality programs at the institution;

(E) Demonstrates to the satisfaction of the commission or council that the governing board is making adequate progress toward achieving the goals for education established by the Southern Regional Education Board;

(F) Demonstrates to the satisfaction of the commission or council that the governing board has considered the average per capita income of West Virginia families and their ability to pay for any increases; and

(G) Demonstrates to the satisfaction of the commission or council that base appropriation increases have not kept pace with recognized nationwide inflationary benchmarks.

(3) This section does not require equal increases among governing boards nor does it require any level of increase by a governing board.

(4) The commission and council shall report to the Legislative Oversight Commission on Education Accountability regarding the basis for approving or denying each request as determined using the criteria established in this subsection.

## WV Code §18B-16-9

### **§18B-16-9. Accountability; reports and audit required.**

(a) The vice chancellor, with the assistance of the advisory panel, shall report in detail to the board of trustees on the expenditure and planned expenditure of public funds to the schools of medicine under section eight of this article. The board of trustees shall report to the Governor, the President of the Senate and the Speaker of the House of Delegates annually prior to December 1, as a part of the higher education report cards required by section eight-a, article one of this chapter.

(b) The vice chancellor, with the guidance and recommendations of the advisory panel, shall develop additional performance indicators, including, but not limited to: (1) An analysis of the health care needs of the targeted areas; (2) the number of persons served and the nature of the services provided; (3) the number of full-time and part-time faculty, students, interns and residents, by discipline, participating in the health science and allied health care education programs; (4) the number of health providers in each community served by primary health care education sites; (5) the financial, social and health status changes in each community served by primary health care education sites; and (6) the extent to which the plans and policies of the office of rural health and the health care planning commission are being effectuated. The vice chancellor shall provide information on the performance indicators to the board of trustees for inclusion in the higher education accountability report card for health sciences provided for in section eight-a, article one of this chapter.

(c) The advisory panel shall report at least annually to the joint Legislative Oversight commission on education accountability created under section eleven, article three-a, chapter twenty-nine-a of this code and to the area health education centers subcommittee of the Joint Committee on Government and Finance regarding the status of the rural health care initiative, paying particular attention to the role of the communities.

(d) The vice chancellor shall report at least annually to the joint Legislative Oversight commission on education accountability created under section eleven, article three-a, chapter twenty-nine-a of this code and to the area health education centers subcommittee of the Joint Committee on Government and Finance regarding the status of the rural health care initiative, paying particular attention to the role of the schools of medicine.

(e) The board of trustees shall facilitate a meeting at least quarterly for the chief administrators of each primary health care education site established pursuant to this article and each chief administrator at other rural health care facilities providing educational and clinical experiences to students, interns and residents at the state's schools of medicine. The meetings shall commence no later than July 1, 1992, and shall be for the purpose of discussing the status, efficiency and effectiveness of the various programs and their operation and recommending any changes to the board of trustees, which may include statutory recommendations to be made to the Legislature.

In addition to the reports otherwise required and commencing with a report for the fiscal year beginning on July 1, 1991, the chief administrators shall submit to the board of trustees an annual

evaluation of the extent to which the goals set forth in section four of this article and other goals relating to collaborative efforts between the schools of medicine and rural health care facilities are being attained. Such report shall be forwarded annually in its entirety to the Governor, the President of the Senate and the Speaker of the House of Delegates no later than January 15, .

(f) The Legislative Auditor, at the direction of the Joint Committee on Government and Finance, shall perform on an ongoing basis a fiscal audit of the medical education components within the university of West Virginia system, the state college system and the rural health initiative for periodic review by the Legislature.

## **WV Code §18B-18A-12**

### **§18B-18A-12. Annual report.**

By January 1, 2010, and annually thereafter, the commission shall submit a report to the Governor, the President of the Senate, the Speaker of the House of Delegates and the Legislative Oversight Commission on Education Accountability detailing implementation of the research endowments at each participating institution, the amount of qualified donations received by each participating institution in the preceding fiscal year, the amount of any distributions made from the trust fund and a description of the research and outcomes supported by those moneys.

## **WV Code §18B-18B-2**

### **§18B-18B-2. Strategic plan; reports.**

(a) The council shall develop a strategic state plan for science and technology research that establishes a collaborative process to engage all scientific research resources, both public and private, in a comprehensive, strategic network. The council's strategic state plan serves as the state plan for science and technology research.

(b) At a minimum, the strategic plan shall address science and technology research resources and their relation to the following areas of research:

(1) Human and physical infrastructure;

(2) Policy development;

(3) Education and outreach;

(4) Research innovation; and

(5) Economic development.

(c) Periodically, the council shall reassess the strategic state plan and update it as needed. Any new or updated strategic state plan shall be approved by the commission prior to becoming effective.

(d) The EPSCoR Advisory Council's current "Vision 2015: The West Virginia Science and Technology Strategic Plan" serves as the state plan for science and technology research until a plan is approved by the council.

(e) The council shall report to the Legislative Oversight Commission on Education Accountability by July 1, 2010, and annually thereafter, on progress in implementing the strategic state plan, as well as any updates to the plan.

## **WV Code §18B-19-5**

### **§18B-19-5. Capital appropriation requests.**

(a) The commission and council each shall submit a prioritized capital appropriation request annually to the state budget office as required by article two, chapter eleven-b of this code consisting of major capital projects and maintenance projects.

(b) The commission and council each shall develop a process for governing boards to follow in submitting a list of major educational and general capital projects so that a prioritized major capital project list, prepared by the commission or council, as appropriate, may be submitted to the state budget office by the applicable deadline.

(1) The governing board's major capital project list shall include the following items:

(A) Projects identified in the governing board's campus development plan or plans. A project may not be included which is not contained in the plan confirmed by the commission or approved by the council, as appropriate, except when extraordinary circumstances otherwise warrant;

(B) A current estimate of each project's estimated cost accounting for inflation since completion of the campus development plan. The size and scope of the project may not change unless the campus development plan has been updated and approved by the council or confirmed by the commission, as appropriate, as provided in section three of this article; and

(C) Any additional information required to be provided by the commission, council or state budget office.

(2) The commission and council each shall rank the major capital projects submitted by the governing boards according to priority consistent with the criteria outlined in the system capital development plan. The council and commission may not submit to the state budget office a request for an institution which the commission or council determines reasonably could not secure funding through the appropriation process during the following fiscal year.

(c) The commission and council each shall develop a process for governing boards to follow in submitting a list of major maintenance projects so that a prioritized maintenance project list, prepared by the commission or council, as appropriate, may be submitted to the state budget office by the applicable deadline.

(1) Annually, the commission and council, as appropriate, shall provide each governing board a recommended building renewal calculation that identifies the funds that should be collected and invested in its buildings and facilities during the next fiscal year to maintain them and minimize deferred maintenance.

(2) As soon as it receives the building renewal calculation, each governing board shall make realistic revenue estimates of the funds available for maintenance projects from educational and

general capital fees, from auxiliary and auxiliary capital fees and from any other revenue that may be used for maintenance projects, as well as any anticipated reserves. The governing boards then shall identify and submit proposed major maintenance projects, consistent with its campus development plan or plans, to be funded from these revenues.

(3) The commission and council each shall report to the Legislative Oversight Commission on Education Accountability on the revenue available to governing boards for educational and general and auxiliary maintenance projects, as well as any shortfalls based on building renewal formula calculation, and major maintenance projects that institutions propose to undertake during the upcoming fiscal year.

(4) The commission shall work with institutions under its jurisdiction to ensure that adequate funds are generated to fund maintenance and build adequate reserves from educational and general and auxiliary capital fees and other revenue consistent with the building renewal formula. The Legislature recognizes that it may take several years for this to be accomplished fully.

(5) The council shall work with the Legislature and institutions under its jurisdiction to ensure that a combination of appropriated and nonappropriated revenue is available to fund maintenance and build adequate reserves at community and technical colleges consistent with the building renewal formula.

## **WV Code §18B-19-18**

### **§18B-19-18. Reporting.**

(a) By July 1, 2013, and annually thereafter, the commission and council shall provide a general status report to the Legislative Oversight Commission on Education Accountability on the progress being made in implementing the state-wide capital development plan and on the progress of the governing boards in implementing the objectives of institutions' campus development plans.

(b) The process required by the commission and council for reporting by the governing boards shall be included in the rules required by section seventeen of this article.



## **WV Code §18C-1-1**

### **§18C-1-1. Legislative findings; purpose; administration generally; reporting.**

(a) The Legislature makes the following findings:

(1) Although enrollments in institutions of higher education in this state and throughout the nation continue to increase at a rapid pace, West Virginia has not developed sufficiently the state's human talent and resources because many able, but needy, students are not able to finance a higher education program;

(2) The state can achieve its full economic and social potential only when the following elements are in place:

(A) Every individual has the opportunity to contribute to the full extent of his or her capability; and

(B) The state assists in removing financial barriers to the individual's education goals that remain after he or she has used all resources and work opportunities available;

(b) The ultimate state goal in providing student financial aid is to create a culture that values education, to improve the quality of the workforce and to enhance the quality of life for the citizens of West Virginia.

(c) The Vice Chancellor for Administration has a ministerial duty to administer, oversee and monitor all state and federal student financial aid programs administered at the state level in accordance with established rules under the direction of the commission and council and in consultation with the Higher Education Student Financial Aid Advisory Board.

(d) These programs include, but are not limited to, the following programs:

(1) The Guaranteed Student Loan Program, which may be administered by a private nonprofit agency;

(2) The Medical Student Loan Program;

(3) The Underwood-Smith Teacher Scholarship Program;

(4) The Engineering, Science and Technology Scholarship Program;

(5) The West Virginia Higher Education Grant Program;

(6) The Higher Education Adult Part-Time Student Grant Program;

(7) The West Virginia Providing Real Opportunities for Maximizing In-State Student Excellence (PROMISE) Scholarship Program;

- (8) The Higher Education Student Assistance Loan Program established pursuant to article twenty-two-d, chapter eighteen of this code;
- (9) The West Virginia College Prepaid Tuition and Savings Program established pursuant to article thirty, chapter eighteen of this code, which is administered by the state Treasurer;
- (10) The state aid programs for students of optometry, pursuant to article three of this chapter;
- (11) The state aid programs for students of veterinary medicine pursuant to section six-a, article eleven, chapter eighteen of this code;
- (12) Any reciprocal program and contract program for student aid established pursuant to sections three and four, article four, chapter eighteen-b of this code;
- (13) Any other state-level student aid programs in this code; and
- (14) Any federal grant or contract student assistance or support programs administered at the state level.
- (e) Notwithstanding any provision of this chapter to the contrary, the Vice Chancellor for Administration shall prepare a single, comprehensive report regarding the implementation of the financial aid programs identified in subsection (d) of this section which are administered under his or her supervision. The report shall be provided to the commission and the council and shall be presented to the Legislative Oversight Commission on Education Accountability no later than November 30, 2009, and annually thereafter. The report shall address all financial aid issues for which reports are required in this code, as well as any findings and recommendations.

## **WV Code §18C-3-1**

### **§18C-3-1. Health Education Loan Program; establishment; administration; eligibility and loan cancellation; required report.**

- (a) For the purposes of this section, "Vice Chancellor for Administration" means the person employed pursuant to section two, article four, chapter eighteen-b of this code.
- (b) There is continued a special revolving fund account administered by the commission in the state Treasury to be known as the Health Education Student Loan Fund which shall be used to carry out the purposes of this section. The fund consists of the following:
- (1) All funds on deposit in the medical student loan fund in the state Treasury or which are due or become due for deposit in the fund as obligations made under the previous enactment of this section;
  - (2) Those funds provided for medical education pursuant to the provisions of section four, article ten, chapter eighteen-b of this code;
  - (3) Appropriations provided by the Legislature;
  - (4) Repayment of any loans made under this section;
  - (5) Amounts provided by medical associations, hospitals or other medical provider organizations in this state, or by political subdivisions of the state, under an agreement which requires the recipient to practice his or her health profession in this state or in the political subdivision providing the funds for a predetermined period of time and in such capacity as set forth in the agreement; and
  - (6) Other amounts which may be available from external sources.
- (c) Balances remaining in the fund at the end of the fiscal year do not expire or revert. All costs associated with administering this section shall be paid from the Health Education Student Loan Fund.
- (d) The Vice Chancellor for Administration may utilize any funds in the Health Education Student Loan Fund for the purposes of the Medical Student Loan Program. The commission shall give priority for the loans to residents of this state, as defined by the commission. An individual is eligible for loan consideration if the individual meets the following conditions:
- (1) Demonstrates financial need;
  - (2) Meets established academic standards;
  - (3) Is enrolled or accepted for enrollment at the West Virginia University School of Medicine, the Marshall University School of Medicine, or the West Virginia School of Osteopathic

Medicine in a program leading to the degree of medical doctor (M.D.) or doctor of osteopathy (D.O.);

(4) Has not yet received one of the degrees provided in subdivision (3) of this subsection; and

(5) Is not in default of any previous student loan.

(e) At the end of each fiscal year, any individual who has received a medical student loan and who has rendered services as a medical doctor or a doctor of osteopathy in this state in a medically underserved area or in a medical specialty in which there is a shortage of physicians, as determined by the Division of Health at the time the loan was granted, may submit to the commission a notarized, sworn statement of service on a form provided for that purpose. Upon receipt of the statement the commission shall cancel \$10,000 of the outstanding loan or loans for every full twelve consecutive calendar months of such service.

(f) No later than thirty days following the end of each fiscal year, the Vice Chancellor for Administration shall prepare and submit a report to the commission for inclusion in the statewide report card required under section eight, article one-d, chapter eighteen-b of this code to be submitted to the Legislative Oversight Commission on Education Accountability established under section eleven, article three-a, chapter twenty-nine-a of this code. At a minimum, the report shall include the following information:

(1) The number of loans awarded;

(2) The total amount of the loans awarded;

(3) The amount of any unexpended moneys in the fund; and

(4) The rate of default during the previous fiscal year on the repayment of previously awarded loans.

## **WV Code §18C-3-4**

### **§18C-3-4. Nursing Scholarship Program; Center for Nursing Fund; administration; scholarship awards; service requirements.**

(a) There is continued in the State Treasury a special revenue account known as the “Center for Nursing Fund” to be administered by the commission to implement the provisions of this section and article seven-b, chapter thirty of this code. Any moneys in the account on the effective date of this section are transferred to the commission’s administrative authority. Balances remaining in the fund at the end of the fiscal year do not expire or revert to the general revenue. All costs associated with the administration of this section and article seven-b, chapter thirty of this code shall be paid from the Center for Nursing Fund under the direction of the Vice Chancellor for Administration. Administrative costs are to be minimized and the maximum amount feasible is to be used to fund awards for students in nursing programs.

(b) The account is funded from the following sources:

(1) A supplemental licensure fee, not to exceed \$10 per year, to be paid by all nurses licensed by the Board of Examiners for Registered Professional Nurses, pursuant to section eight-a, article seven, chapter thirty of this code, and the Board of Examiners for Licensed Practical Nurses, pursuant to section seven-a, article seven-a, chapter thirty of this code;

(2) Repayments, including interest as set by the Vice Chancellor for Administration, collected from recipients who fail to practice or teach in West Virginia under the terms of the scholarship agreement; and

(3) Any other funds from any source as may be added to the account.

(c) In consultation with the Board of Directors of the West Virginia Center for Nursing, established pursuant to article seven-b, chapter thirty of this code, the commission shall administer a scholarship, designated the Nursing Scholarship Program, designed to benefit nurses who practice in hospitals and other health care institutions or teach in state nursing programs.

(1) Awards are available for students enrolled in accredited nursing programs in West Virginia. A recipient shall execute an agreement to fulfill a service requirement or repay the amount of any award received.

(2) Awards are made as follows, subject to the rule required by this section:

(A) An award for any student may not exceed the full cost of education for program completion.

(B) An award of up to \$3,000 is available for a student in a licensed practical nurse education program. A recipient is required to practice nursing in West Virginia for one year following program completion.

(C) An award of up to \$7,500 is available for a student who has completed one-half of a registered nurse education program. A recipient is required to teach or practice nursing in West Virginia for two years following program completion.

(D) An award of up to \$15,000 is available to a student in a nursing master's degree program or a doctoral nursing or education program. A recipient is required to teach in West Virginia for two years following program completion.

(E) An award of up to \$1,000 per year is available for a student obtaining a licensed practical nurse teaching certificate. A recipient is required to teach in West Virginia for one year per award received.

(d) An award recipient shall satisfy one of the following conditions:

(1) Fulfill the service requirement pursuant to this section and the legislative rule; or

(2) Repay the commission for the amount awarded, together with accrued interest as stipulated in the service agreement.

(e) The commission shall promulgate a rule for legislative approval pursuant to article three-a, chapter twenty-nine-a of this code to implement and administer this section. The rule shall provide for the following:

(1) Eligibility and selection criteria for program participation;

(2) Terms of a service agreement which a recipient shall execute as a condition of receiving an award;

(3) Repayment provisions for a recipient who fails to fulfill the service requirement;

(4) Forgiveness options for death or disability of a recipient;

(5) An appeal process for students denied participation or ordered to repay awards; and

(6) Additional provisions as necessary to implement this section.

# WV Code §18C-5-7

## **§18C-5-7. Higher education adult part-time student grant program.**

(a) There is established the Higher Education Adult Part-time Student Grant Program, referred to in this section as the HEAPS grant program. The grant program established and authorized by this section is administered by the vice chancellor for administration. Moneys appropriated or otherwise available for the grant program shall be allocated by line item to an appropriate account. Any moneys remaining in the fund at the close of a fiscal year shall be carried forward for use in the next fiscal year.

(b) As used in this section, the following terms have the meanings ascribed to them:

(1) "Approved distance education" means a course of study offered via electronic access that has been approved for inclusion in the applicant's program of study by the eligible institution of higher education at which the applicant is enrolled or has been accepted for enrollment;

(2) "Part-time" means enrollment for not less than three nor more than eleven semester or term hours: Provided, That in the case of enrollment in postsecondary certificate, industry recognized credential and other skill development programs in demand occupations in this state, "part-time" means enrollment on such basis as is established for the program in which enrolled;

(3) "Satisfactory academic progress" means maintaining a cumulative grade point average of at least 2.0 on a 4.0 grading scale with a goal of obtaining a certificate, associate degree or bachelor's degree. In the case of postsecondary certificate, industry recognized credential and other skill development programs, satisfactory academic progress means continuous advancement toward completion of the program on the normal schedule established for the program in which enrolled;

(4) "Eligible institution" means:

(A) Any community college; community and technical college; adult technical preparatory education program or training;

(B) Any state college or university, as those terms are defined in section two, article one, chapter eighteen-b of this code;

(C) Any approved institution of higher education as that term is defined in section two of this article; and

(D) Any approved distance education, including world wide web based courses;

(5) "Eligible program or programs" or "eligible course or courses" means, in addition to programs and courses offered by eligible institutions as defined in subdivision (4) of this subsection:

(A) Programs and courses offered by any nationally accredited degree granting institution of higher learning permitted pursuant to section five, article three, chapter eighteen-b of this code and approved by the joint commission for vocational-technical-occupational education; and

(B) Any postsecondary certificate, industry recognized credential and other skill development programs of study as defined in this section in a demand occupation in this state;

(6) "State resident" means a student who has lived in West Virginia continuously for a minimum of twelve months immediately preceding the date of application for a HEAPS grant or renewal of a grant;

(7) "Postsecondary certificate program" means an organized program of study, approved by the joint commission for vocational-technical-occupational education, with defined competencies or skill sets that may be offered for credit or noncredit and which culminates in the awarding of a certificate: Provided, That postsecondary certificate programs offered by eligible institutions as defined in subdivision (4) of this subsection do not require the approval of the joint commission for vocational-technical-occupational education;

(8) "Demand occupation" means any occupation having documented verification from employers that job opportunities in that occupation are currently available or are projected to be available within a year within the state or regions of the state. The Joint Commission for Vocational-Technical-Occupational Education shall prepare and update annually a list of occupations that they determine meet the requirements of this definition;

(9) "Industry-recognized credential program" means an organized program that meets nationally recognized standards in a particular industry, is approved by the joint commission for vocational-technical-occupational education and which culminates in the awarding of a certification or other credential commonly recognized in that industry: Provided, That industry recognized credential programs offered by eligible institutions as defined in subdivision (4) of this subsection do not require the approval of the Joint Commission for Vocational-Technical-Occupational Education; and

(10) "Skill development program" means a structured sequence or set of courses, approved by the joint commission for vocational-technical-occupational education, with defined competencies that are designed to meet the specific skill requirements of an occupation and which culminates in the awarding of a certificate of completion that specifically lists the competencies or skills mastered: Provided, That skill development programs offered by eligible institutions as defined in subdivision (4) of this subsection do not require the approval of the joint commission.

(c) A person is eligible for consideration for a HEAPS grant if the person:

(1) Demonstrates that he or she has applied for, accepted, or both, other student financial assistance in compliance with federal financial aid rules, including the federal Pell grant;

(2) Demonstrates financial need for funds, as defined by legislative rule;



- (3) Is a state resident and may not be considered a resident of any other state;
  - (4) Is a United States citizen or permanent resident thereof;
  - (5) Is not incarcerated in a correctional facility;
  - (6) Is not in default on a higher education loan; and
  - (7) Is enrolled in a program of study at less than the graduate level on a part-time basis in an eligible institution or program of study and is making satisfactory academic progress at the time of application: Provided, That the requirement that the student be making satisfactory academic progress may not preclude a HEAPS grant award to a student who has been accepted for enrollment in an eligible institution or program of study but has not yet been enrolled.
- (d) Each HEAPS grant award is eligible for renewal until the course of study is completed, but not to exceed an additional nine years beyond the first year of the award.
- (e) The Higher Education Policy Commission shall propose a legislative rule pursuant to article three-a, chapter twenty-nine-a of this code to implement the provisions of this section which shall be filed with the Legislative Oversight Commission on Education Accountability by September 1, 2003. The Legislature hereby declares that an emergency situation exists and, therefore, the policy commission may establish, by emergency rule, under the procedures of article three-a, chapter twenty-nine-a of this code, a rule to implement the provisions of this section, after approval by the Legislative Oversight Commission on Education Accountability.
- (f) The legislative rule shall provide at least the following:
- (1) That consideration of financial need, as required by subdivision (3), subsection (c) of this section, include the following factors:
    - (A) Whether the applicant has dependents as defined by federal law;
    - (B) Whether the applicant has any personal hardship as determined at the discretion of the vice chancellor for administration; and
    - (C) Whether the applicant will receive any other source of student financial aid during the award period.
  - (2) That an appropriate allocation process be provided for distribution of funds directly to the eligible institutions or programs based on the part-time enrollment figures of the prior year;
  - (3) That not less than twenty-five percent of the funds appropriated in any one fiscal year be used to make grants to students enrolled in postsecondary certificate, industry recognized credential and other skill development programs of study: Provided, That after giving written notice to the Legislative Oversight Commission on Education Accountability, the vice chancellor for administration may allocate less than twenty-five percent of the funds for such grants;

(4) That ten percent of the funds appropriated in any one fiscal year shall be granted to state community and technical colleges by the council for community and technical college education in accordance with a process specified in the rule for noncredit and customized training programs which further the economic development goals of the state, help meet the training and skill upgrade needs of employers in the state, and for which funds are not available from other sources;

(5) That any funds not expended by an eligible institution or program at the end of each fiscal year shall be returned to the vice chancellor for administration for distribution under the provisions of this section;

(6) That grants under this section shall be available for approved distance education throughout the calendar year, subject only to the availability of funds; and

(7) That the amount of each HEAPS grant award be determined using the following guidelines:

(A) The amount of any HEAPS grant awarded to a student per semester, term hour or program for those students who are enrolled in eligible institutions or programs operated under the jurisdiction of an agency of the state or a political subdivision thereof shall be based upon the following:

(i) Actual cost of tuition and fees;

(ii) The portion of the costs determined to be appropriate by the commission; and

(iii) In addition to factors (i) and (ii) above, in determining the amount of the award, the vice chancellor may consider the demand for the program pursuant to subdivision (8), subsection (b) of this section; and

(B) The amount of any HEAPS grant awarded to a student who is enrolled in any other eligible institution, program or course shall be no greater than the average amount for comparable programs or courses as determined pursuant to the provisions of paragraph (A) above.

(g) The HEAPS grant program is subject to any provision of this article not inconsistent with the provisions of this section.

# WV Code §18C-7-5

## **§18C-7-5. Powers and duties of the West Virginia Higher Education Policy Commission regarding the PROMISE Scholarship.**

(a) Powers of commission. — In addition to the powers granted by any other provision of this code, the commission has the powers necessary or convenient to carry out the purposes and provisions of this article including, but not limited to, the following express powers:

(1) To promulgate legislative rules in accordance with the provisions of article three-a, chapter twenty-nine-a of this code to effectuate the purposes of this article;

(2) To invest any of the funds of the West Virginia PROMISE Scholarship Fund established in section seven of this article with the West Virginia Investment Management Board in accordance with the provisions of article six, chapter twelve of this code. Any investments made pursuant to this article shall be made with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in conducting an enterprise of a like character and with like aims. Fiduciaries shall diversify plan investments to the extent permitted by law to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so;

(3) To execute contracts and other necessary instruments;

(4) To impose reasonable requirements for residency for students applying for the PROMISE scholarship. Except as provided in section four, article one of this chapter, a student shall have met the following requirements to be eligible:

(A) Completed at least one half of the credits required for high school graduation in a public or private high school in this state; or

(B) Received instruction in the home or other approved place pursuant to subsection (c), section one, article eight, chapter eighteen of this code for the two years immediately preceding application;

(C) This subsection does not establish residency requirements for matriculation or fee payment purposes at state institutions of higher education;

(5) To contract for necessary goods and services, to employ necessary personnel and to engage the services of private persons for administrative and technical assistance in carrying out the responsibilities of the scholarship program. Any services provided or secured to implement or administer the provisions of this section remain under the direction and authority of the Vice Chancellor for Administration;

(6) To solicit and accept gifts, including bequests or other testamentary gifts made by will, trust or other disposition, grants, loans and other aid from any source and to participate in any federal, state or local governmental programs in carrying out the purposes of this article;

(7) To define the terms and conditions under which scholarships are awarded with the minimum requirements being set forth in section six of this article; and

(8) To establish other policies, procedures and criteria necessary to implement and administer the provisions of this article.

(b) Duties of commission. — In addition to any duty required by any other provision of this code, the commission has the following responsibilities:

(1) To operate the program in a fiscally responsible manner and within the limits of available funds;

(2) To operate the program as a merit-based program;

(3) To adjust academic eligibility requirements should projections indicate that available funds will not be sufficient to cover future costs; and

(4) To maintain contact with graduates who have received PROMISE scholarships and to provide a written statement of intent to recipients who are selected to receive a PROMISE scholarship notifying them that acceptance of the scholarship entails a responsibility to supply the following:

(A) Information requested by the commission to determine the number and percentage of recipients who shall:

(i) Continue to live in West Virginia after graduation;

(ii) Obtain employment in West Virginia after graduation; and

(iii) Enroll in post-graduate education programs;

(B) For PROMISE scholars who enroll in post-graduate education programs, the name of the state in which each post-graduate institution is located; and

(C) Any other relevant information the commission reasonably requests to implement the provisions of this subdivision.

# **WV Code §30-7B-7**

## **§30-7B-7. Reports.**

The center shall report by December 1, 2014, and biennially thereafter, to the Legislative Oversight Commission on Health and Human Resources Accountability and the Legislative Oversight Commission on Education Accountability on its progress in developing a statewide strategic plan to address the nursing shortage in West Virginia and on any other issues the board considers relevant to the practice of nursing in this state. Additionally, the board shall provide drafts of any legislation needed to implement recommendations of the center's strategic plan.